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**From:** Ashcroft, Tyler  
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What's Next for Bears Ears Panel v2.docx

FYI.

----- Forwarded message -----

**From:** **Josh Ewing** <[josh@cedarmesafriends.org](mailto:josh@cedarmesafriends.org)>  
**Date:** Thu, Feb 23, 2017 at 11:38 AM  
**Subject:** Draft questions for Bears Ears panel  
**To:** Lance Porter <[l50porte@blm.gov](mailto:l50porte@blm.gov)>, Don Hoffheins <[dhoffhei@blm.gov](mailto:dhoffhei@blm.gov)>, Tyler Ashcroft <[tashcrof@blm.gov](mailto:tashcrof@blm.gov)>  
**Cc:** CARL D ROUNTREE | (b) (6) [REDACTED]

Lance, Don, and Tyler: I spoke with Tyler this morning about the "What's next for Bears Ears" panel discussion we're holding at our Celebrate Cedar Mesa gathering on March 4th. I understand you are still deciding if the agency will participate or not.

Tyler and I thought it might be helpful in your decision making for you to see the draft panel questions and also to know that we are open to feedback on those questions. In addition, Carl Rountree (the panel moderator, cc'd to this email) will be prepared to direct questions in a way that should minimize the BLM being put in a tricky position (e.g. asked to speculate on legal issues).

I understand the delicate PR situation you are in and will not be offended if you decide you cannot participate. With that said, I would encourage you to think about your participation as part of a broader strategy to inform the public about the agency's thinking.

Please take a look at the attached draft questions, knowing we are very open to feedback and changes.

If you could give me a decision about your participation by Monday...Tuesday at the latest, that would be great.

With appreciation,

**Josh Ewing**

*Executive Director, Friends of Cedar Mesa*

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# What's Next for Bears Ears? Panel Discussion

Celebrate Cedar Mesa: March 4<sup>th</sup>, 2017

Bluff Community Center

Panel scheduled to start approximately 11:15 AM

## **Format:**

- Introduction by Carl Rountree, former Head of BLM National Conservation Lands in Washington, D.C.
- Brief opening statements and introductions of panel participants
- Questions from moderator (no audience questions...audience can be encouraged to ask their own questions of panelists at lunch)
- Carl will direct questions to appropriate panel members to avoid putting panelists in tricky positions (e.g. BLM would not be asked to speculate about legal scenarios).

## **Panelists:**

- John Ruple, Wallace Stegner Center for Land Resources and the Environment, University of Utah
- Alfred Lomaquahu, Vice-Chairmand of the Hopi Tribe and Co-Chair of the Bears Ears Inter-Tribal Coalition
- Nada Culver, Director of The Wilderness Society BLM Action Center
- Tentative: BLM representative TBD

## Potential Moderator Questions

\*\*\*Panelists are encouraged to provide feedback on questions prior to the event to help us avoid problematic situations and/or framing. We will likely not get to all of the question due to time constraints, so Carl may skip questions to cover a range of topics.\*\*\*

### “Undoing” or Shrinking the National Monument

No point avoiding the elephant in the room ...so we'll get right to it. Recently the Utah Governor and Legislature requested the Trump Administration to “undesignate” or dramatically shrink the size of the Bears Ears National Monument. At this point, we have no indication if the Administration will take action or how quickly it might do so. (Obviously, this might change before the panel...and that would require some reframing of questions.)

- Under the Antiquities Act of 1906, what authority does a President have to undo a previous national monument designation? What past precedent is there to give us an idea of what might happen?
- What would be the response from the Tribes and conservation community to an Executive “undesignation” or shrinkage of Bears Ears?
  - Given that the litigation challenging a potential action to undesignate the Bears Ears National Monument will be the first legal test of a president's authority to do so under the Antiquities Act, what will be the likely legal basis for not undoing the designation? Given that past presidents have modified the

boundaries of previously designated monuments, do these actions provide any legal basis or precedent/nexus for undoing a designation?

- What, if anything, will happen in terms of the Monument's management prior to the Administration making a decision on Utah's request? Is it likely the Administration will restrain the federal agencies and Tribal Commission from doing any planning or anything different from the current management for the monument?
  - Is this likely to change if litigation challenging any Administrative shrinkage or de-designation is taken? Will the courts impose a stay?

#### The Role of Tribes in the Planning and Management of the National Monument

—For nearly 113 years, various advocates have been calling for protection of the Bears Ears area. The area was finally protected largely due to the outspoken advocacy of Native American Tribes. The final proclamation was obviously a historic act, with Tribes for the first time joining together to protect traditional homelands.

- What's unique about the Bears Ears proclamation?
- How do Tribes feel about the proclamation?
- Will it be more or less difficult for Tribes to stay united and engaged in the National Monument now that it has been created?
- Obviously, lands containing valuable cultural sites were left out of the National Monument? Will Tribes and the conservation community continue to advocate for protection for those areas via other means?
- The Proclamation creating the Bears Ears National Monument calls for the creation of a Bears Ears Commission which will be composed of one elected officer from each of the 5 Tribes that formed the Inter-Tribal Coalition to support protection of the National Monument. This is the first time such a model has been created for planning for and managing a national monument. How do you see this model working; what challenges do you foresee in assuring its success?
- The proclamation also calls for the creation of a Federal Advisory Council to provide advice and information for the development of the monument's management plan.
  - How does that Council process work?
  - How do you see the Council and Bears Ears Commission working together and how might their roles differ?

#### “National Monument Planning”

The Proclamation creating the Bears Ears National Monument calls for the development of a management plan. This is standard for National Monuments and other protected areas.

- Briefly, what will the plan address and how might it differ from other Forest Service and BLM management plans?
- What are the challenges and opportunities of the Monument having two land management agencies involved in planning and management?

- How will this sensitive and heavily visited area be managed in the interim, before a management plan is finalized?
- Will interim measures be taken to protect objects and values outlined in the proclamation while the planning process proceeds?

**“Immediate Agency Actions”**

- What changes does the proclamation designating the Bears Ears National Monument require that are different from the area’s current management?
- Have any steps been taken to implement these changes?
- What are the more immediate changes we can expect?
- Now that the area has been designated, the number of visitors will likely increase, at least for the next few years. To better protect the area, information and educational materials will be necessary. What steps are being taken to provide these?
- Are any BLM or FS staff currently assigned to the Bears Ears National Monument and are additional staff being contemplated?
- What role can the public and groups like the Friends of Cedar Mesa play assisting in the management of the Bears Ears NM?
- Recognizing that a federal hiring freeze is currently in place, are there plans to hire a Monument Manager for the Bears Ear National Monument?
- Will these staff be separate and apart from district and field office staff, or will they share other district and field office duties?
- Will the Bears Ears National Monument be treated the same as the GSENM in Utah BLM’s organization; i.e., reporting directly to the Utah State Office, or a part of the Canyon Country District or Monticello Field Office?